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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3970

11 **CVS PHARMACY #1176**
12 **25829 Narbonne Ave**
13 **Lomita, CA 90717**
Original Permit Number No. PHY 48257

A C C U S A T I O N

14 Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

19 2. On or about September 11, 2006, the Board of Pharmacy issued Original Permit
20 Number Number PHY 48257 to CVS Pharmacy #1176 ("Respondent"). The Original Permit
21 Number was in full force and effect at all times relevant to the charges brought herein and will
22 expire on June 1, 2011, unless renewed.

23 **JURISDICTION**

24 3. This Accusation is brought before the Board of Pharmacy ("Board"), Department of
25 Consumer Affairs, under the authority of the following laws. All section references are to the
26 Business and Professions Code ("Code") unless otherwise indicated.
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1 4. Section 4011 of the Code provides that the Board shall administer and enforce the
2 Pharmacy Law [Bus. & Prof. Code, § 4000 et seq].

3 5. Section 4300 of the Code provides, in pertinent part, that every license issued by
4 the Board is subject to discipline, including suspension or revocation.

5 6. Section 4037 of the Code provides, in pertinent part, “‘Pharmacy’ means an area,
6 place, or premises licensed by the board in which the profession of pharmacy is practiced and
7 where prescriptions are compounded. ‘Pharmacy’ includes, but is not limited to, any area, place,
8 or premises described in a license issued by the board wherein controlled substances, dangerous
9 drugs, or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded,
10 or repackaged, and from which the controlled substances, dangerous drugs, or dangerous devices
11 are furnished, sold, or dispensed at retail.”

12 7. Section 118, subdivision (b) of the Code provides:
13 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board in
14 the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a
15 court of law, or its surrender without the written consent of the board, shall not, during any period
16 in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to
17 institute or continue a disciplinary proceeding against the licensee upon any ground provided by
18 law or to enter an order suspending or revoking the license or otherwise taking disciplinary action
19 against the licensee on any such ground.

20 **STATUTORY AND REGULATORY PROVISIONS**

21 8. Section 4301 of the Code provides, in pertinent part:

22 “The board shall take action against any holder of a license who is guilty of
23 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
24 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
25 following:

26 ...

27 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violation of or conspiring to violate any provision or term of this chapter or of the applicable

1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency...”

3 9. California Code of Rules and Regulations, chapter 16, section 1714, subdivision
4 (c) provides, in pertinent part, “The pharmacy and fixtures and equipment shall be maintained in a
5 clean and orderly condition. The pharmacy shall be dry, well-ventilated, free from rodents and
6 insects, and properly lighted. The pharmacy shall be equipped with a sink with hot and cold
7 running water for pharmaceutical purposes.”

8 **COST RECOVERY**

9 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request
10 the administrative law judge to direct a licensee found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Failing to Maintain Operational Standards)**

15 11. Respondent’s Original Permit Number is subject to disciplinary action under
16 California Code of Regulations, chapter 16, section 1714, for failing to maintain operational
17 standards in that Respondent failed to maintain CVS Pharmacy #1176 in a clean and orderly
18 condition, free from rodents.

19 12. On or about November 9, 2010, an inspector with the County of Los Angeles Public
20 Health Department inspected CVS Pharmacy #1176 located at 25829 Narbonne Avenue in
21 Lomita, California.

22 13. The inspector noticed that CVS Pharmacy #1176 had a rodent infestation problem.
23 The inspector observed rat droppings, food that had been gnawed through by rats, a strong odor
24 of rat urine, and uplifted ceiling tiles that were broken and/ or gnawed through.

25 14. On or about November 9, 2010, the Public Health Department suspended the public
26 health permit for CVS Pharmacy.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

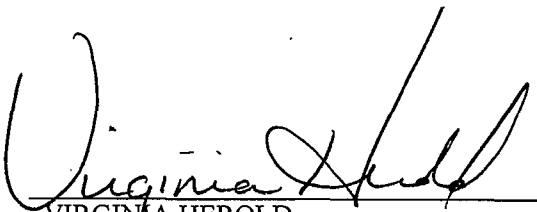
3 15. Respondent's Original Permit Number is subject to disciplinary action under Code
4 section 4301 subdivision (o), for unprofessional conduct in that Respondent violated a regulation
5 of the state of California governing pharmacies. The circumstances surrounding the conduct are
6 more particularly described in paragraphs 11 through 14, inclusive, above, and herein
7 incorporated by reference.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Pharmacy issue a decision:

- 11 1. Revoking or suspending Original Permit Number PHY 48257, issued to CVS
12 Pharmacy #1176;
- 13 2. Ordering CVS Pharmacy #1176 to pay the Board of Pharmacy the reasonable costs of
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18
19 DATED: 4/7/11


20 VIRGINIA HEROLD
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 Complainant

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